IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

LA.App..No. 211 of 2005()

LAR.64/2001 of SUB COURT, CHERTHALA

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APPELLANT: CLAIMANT IN THE TRIAL COURT:

PURUSHOTHAMAN, KALAPPURACKAL FROM
KOCHUNIKALATHIL, PALLIPPURAM.

BY ADV. SRI.V.L.SHENOY

RESPONDENTS: RESPONDENTS IN THE TRIAL COURT:

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1. KERALA STATE REPRESENTED BY THE
SPECIAL TAHSILDAR (LA), INDUSTRIAL
GROWTH CENTRE, CHERTHALA.

2. THE MANAGING DIRECTOR,
K.S.I.D.C., THIRUVANANTHAPURAM.

R2 BY ADV. SRI.V.JAYAPRADEEP, SC, KSIDC
R1 BY GOVERNMENT PLEADER SMT.LAKSHMI RANI.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 11/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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L.A.App.No.211 OF 2005

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Dated this the 11th day of January, 2007.

JUDGMENT

Heard the learned counsel for the appellant, the learned counsel for the second respondent, the requisitioning authority, namely, KSIDC, as also the learned Government Pleader on behalf of the first respondent, State.

2. This appeal revolves around the question of fixation of value of a building that was involved in the acquisition.

3. For the purpose of the second respondent, land was acquired from the appellant. The award passed by the Collector shows that the value of the buildings, wells, crops, trees etc. in the acquired land was fixed at Rs.49,415/-. The claimant filed a reference application, inter alia, claiming the value of the building at Rs.2,50,000/-, apart from enhancement in

land value. Before the Reference Court, the claimant filed a proof affidavit relying on the report of the Commissioner, Ext.X1 and also asserting that he is entitled to compensation for the building as claimed by him. The cross-examination of the claimant does not even touch upon the compensation for the building as spoken to by him. Ext.X1 report includes an assessment of the depreciated value of the building prepared by a registered Engineer. No objections are seen filed to the said report either by the acquisitioning authority or the requisitioning authority. The valuation report shows a total depreciated costs of Rs.1,26,890/-. The recitals in the Commissioner's report justify the said valuation report also. I wonder why that report and the evidence in support thereof escaped the notice of the Court below. At any rate, there is no reason why the claimant is not given the value of the building as determined by the Commissioner. Hence, acting on Ext.X1 report, it is held that the depreciated value of the building due to the claimant as compensation is Rs.1,26,890/-. From this amount, the amount determined in the award of the Collector as the value of the

building, i.e., Rs.49,415/- has to be reduced. The claimant has confined his claim in this appeal to Rs.80,000/- which is less than the amount that could be arrived at by deducting the compensation awarded by the Collector for the building from the compensation that is due for the building, as evidenced by Ext.X1.

4. However, it is pointed out by the learned counsel for the second respondent, requisitioning authority that the award in LAR.64/2001 has been set aside by the Division Bench in L.A.A.967/2004 along with the batch matter as per judgment dated 30th July, 2005. Having perused the said judgment, it is obvious that the award was set aside on the ground that the requisitioning authority, namely, the KSIDC was not afforded sufficient opportunity to place materials on record and its evidence in support of its contentions regarding land value.

5. Yet, it is apparent that what is stated aforesaid as regards the fixation of value of the building ought not to escape notice of the Reference

Court while re-deciding LAR.64/2001, following the order of remit contained in LAA.967/2004. It is clarified that whatever stated in this judgment shall not be taken as final regarding the fixation of the value of the building since KSIDC will also be entitled to an opportunity to object to the same.

In the result, following the remit of LAR 64/2001 in LAA.967/2004, it is directed that the claim of the appellant-claimant to value regarding the buildings will also be determined afresh, following this judgment.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-